

## **SUPERVISORY AGREEMENT**

This Supervisory Agreement (Agreement) is made this 9<sup>th</sup> day of November, 2010, by and through the Board of Directors (Board) of First Federal Bank, a FSB, Tuscaloosa, Alabama, OTS Docket No. 06432 (Association) and the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Southeast Region (Regional Director);

**WHEREAS**, the OTS, pursuant to 12 U.S.C. § 1818, has the statutory authority to enter into and enforce supervisory agreements to ensure the establishment and maintenance of appropriate safeguards in the operation of the entities it regulates; and

**WHEREAS**, the Association is subject to examination, regulation and supervision by the OTS; and

**WHEREAS**, based on its May 17, 2010 examination of the Association (2010 Examination), the OTS finds that the Association has engaged in unsafe or unsound practices and/or violations of law or regulation; and

**WHEREAS**, in furtherance of their common goal to ensure that the Association addresses the unsafe or unsound practices and/or violations of law or regulation identified by the OTS in the 2010 Examination, the Association and the OTS have mutually agreed to enter into this Agreement; and

**WHEREAS**, on November 8, 2010, the Association's Board, at a duly constituted meeting, adopted a resolution (Board Resolution) that authorizes the Association to enter into this Agreement and directs compliance by the Association and its directors, officers, employees, and other institution-affiliated parties with each and every provision of this Agreement.

**NOW THEREFORE**, in consideration of the above premises, it is agreed as follows:

### **Brokered Deposits.**

1. Effective immediately, the Association is prohibited from increasing the dollar amount of brokered deposits<sup>1</sup> at the Association in excess of net interest credited on deposit liabilities for the preceding quarter without receiving the prior written non-objection of the Regional Director. The Association's written request for non-objection shall be submitted to the Regional Director at least forty-five (45) days prior to the anticipated date of acceptance of additional brokered deposits.
2. By January 31, 2011, the Association shall submit a brokered deposit reduction plan to the Regional Director for review and non-objection (Brokered Deposit Plan). At a minimum, the Brokered Deposit Plan shall cover the time period from March 1, 2011 through December 31, 2013 and include:
  - (a) a detailed description of the current level and composition of the Association's brokered deposits, including the source of each deposit and its maturity date;
  - (b) comprehensive cash flow and brokered deposit projections forecasting funding needs and sources for each calendar quarter covered by the Brokered Deposit Plan; and
  - (c) detailed strategies to reduce the current level of brokered deposits to no more than 25% of total liabilities by December 31, 2013, with monthly target amounts.
3. Upon receipt of written non-objection from the Regional Director, the Association shall implement and adhere to the Brokered Deposit Plan. Any modifications to the Brokered Deposit Plan must receive the prior written non-objection of the Regional Director. The Association shall submit any proposed modifications to the Regional Director at least forty-five (45) days prior to implementation of any modifications.

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<sup>1</sup> The term "brokered deposit" is defined at 12 C.F.R. § 337.6(a)(2).

4. Within thirty (30) days after the close of each quarter, beginning with the quarter ending March 31, 2011, the Board shall review quarterly variance reports on the Association's compliance with the Brokered Deposit Plan (Brokered Variance Reports). A copy of the Brokered Variance Reports shall be provided to the Regional Director within ten (10) days after the Board meeting.

**Business Plan.**

5. By January 31, 2011, the Association shall submit a comprehensive business plan for calendar years 2011, 2012 and 2013 (Business Plan) that addresses all corrective actions in the 2010 Examination relating to the Association's business operations to the Regional Director for review and non-objection. Thereafter, the Association shall submit an updated three year Business Plan at least ninety (90) days prior to the end of each calendar year. At a minimum, the Business Plan shall conform to applicable laws, regulations and regulatory guidance and include:

- (a) plans to improve the Association's core earnings and achieve core profitability net of the mortgage operations on a consistent basis throughout the term of the Business Plan;
- (b) detailed strategies and actions the Association will take to limit the combined amount of brokered deposits and borrowings to no more than 50% of total liabilities (and the amount of brokered deposits to no more than 25% of total liabilities in conjunction with the Brokered Deposit Plan required in Paragraph 2);
- (c) detailed strategies for monitoring and maintaining the Association's compliance with applicable regulatory capital requirements, satisfying the Association's liquidity needs and ensuring the adequacy of the Association's financial and human capital resources to implement the Business Plan;

- (d) quarterly pro forma financial projections (balance sheet, regulatory capital ratios, and income statement) for each quarter covered by the Business Plan; and
  - (e) consideration of the requirements of this Agreement.
6. Within thirty (30) days after receipt of written notification of non-objection from the Regional Director, the Association shall implement and adhere to the Business Plan. A copy of the Business Plan and the Board meeting minutes reflecting the Board's adoption thereof shall be provided to the Regional Director within twenty (20) days after the Board meeting.
7. Any material modifications<sup>2</sup> to the Business Plan must receive the prior written non-objection of the Regional Director. The Association shall submit proposed material modifications to the Regional Director at least forty-five (45) days prior to implementation.
8. Within thirty (30) days after the end of each quarter, beginning with the Quarter ending March 31, 2011, the Board shall review quarterly variance reports on the Association's compliance with the Business Plan (Variance Reports). The Variance Reports shall:
- (a) identify variances in the Association's actual performance during the preceding quarter as compared to the projections set forth in the Business Plan;
  - (b) contain an analysis and explanation of identified variances; and
  - (c) discuss the specific measures taken or to be taken to address identified variances.
9. A copy of the Variance Reports and Board meeting minutes shall be provided to the Regional Director within ten (10) days after the Board meeting.

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<sup>2</sup> A modification shall be considered material under this Section of the Agreement if the Association plans to: (a) engage in any activity that is inconsistent with the Business Plan; or (b) exceed the level of any activity contemplated in the Business Plan or fail to meet target amounts established in the Business Plan by more than ten percent (10%), unless the activity involves assets risk-weighted fifty percent (50%) or less, in which case a variance of more than twenty-five percent (25%) shall be deemed to be a material modification.

**Loan Underwriting.**

10. By January 31, 2011, the Association shall revise its loan underwriting policies, procedures, practices, and controls (Loan Underwriting Policy) to address all corrective actions in the 2010 Examination relating to loan underwriting. The Loan Underwriting Policy shall comply with applicable laws, regulations and regulatory guidance and shall, at a minimum:

- (a) establish specific debt service to income ratios for each loan type;
- (b) require ongoing documentation demonstrating borrower's ability to meet all contractual debt service obligations from current, verified net income and cash flow; and
- (c) require documentation of the current value of all pledged collateral including appraisals, inspection reports, and any other appropriate information.

**Lending.**

11. Effective immediately, the Association shall not renew or modify any existing nonresidential real estate, multifamily, construction, land, or commercial nonmortgage loans without first obtaining, analyzing and documenting through the use of proper credit memorandums (i) current financial information on the borrower, including financial statements, income statements and tax returns, rent rolls, lease agreements; and (ii) current information regarding the value of all collateral, including appraisals, inspection reports, and any other appropriate information.

**Allowance for Loan and Lease Losses.**

12. By January 31, 2011, the Association shall revise its policies, procedures, and methodology relating to the timely establishment and maintenance of an adequate allowance for loan and lease losses (ALLL) level (ALLL Policy) to address all corrective actions set forth in

the 2010 Examination relating to the ALLL. The ALLL Policy shall comply with applicable laws, regulations, and regulatory guidance and shall:

- (a) incorporate the results of all internal loan reviews and classifications;
- (b) address the historical loan loss rates of the Association in compliance with regulatory guidance, which shall be updated quarterly with heavier weighting assigned to rates of the most recent quarters;
- (c) require an expanded segmentation of the Association's loan portfolio for internal loan review analysis;
- (d) include an estimate of the potential loss exposure on each significant<sup>3</sup> credit;
- (e) require the stress testing of loss rates and delinquency rates to: (i) determine the sensitivity of the ALLL methodology to changes from primary inputs; (ii) provide information regarding the risk of miscalculation if the credit environment changes; and (iii) evaluate the appropriateness of the ALLL in a range of credit environments; and
- (f) address the level and impact of the Association's current concentrations of credit, including geographic concentrations.

13. A copy of the ALLL Policy shall be submitted to the Regional Director for review within ten (10) days after revision. Within thirty (30) days of receipt of any comments from the Regional Director, the Association shall incorporate the comments into and implement and adhere to the revised ALLL Policy.

14. Within thirty (30) days after the end of each quarter, beginning with the quarter ending March 31, 2011, the Association shall analyze the adequacy of the ALLL consistent with its ALLL Policy (Quarterly ALLL Report). The Board's review of the Quarterly ALLL Report,

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<sup>3</sup> A credit shall be considered significant for the purposes of assessing, establishing, and maintaining an appropriate level of ALLL if it is/was Five Hundred Thousand Dollars (\$500,000.00) or greater at origination.

including, but not limited to, all qualitative factors considered in determining the adequacy of the Association's ALLL, shall be fully documented in the Board meeting minutes. Any deficiency in the ALLL shall be remedied by the Association in the quarter in which it is discovered and before the Association files its Thrift Financial Report (TFR) with the OTS. A copy of the Quarterly ALLL Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

**Troubled Debt Restructuring.**

15. By January 31, 2011, the Association shall develop and adhere to a written Troubled Debt Restructuring Policy (TDR Policy) that will ensure that the Association's loans and other assets are appropriately and timely risk rated and that nonaccrual loans are timely recognized and appropriately accounted for by Association personnel. At a minimum, the TDR Policy will:

- (a) establish the terms and circumstances under which the Association will accept or negotiate a trouble debt restructuring (TDR), which may include a lower or no interest rate, a reduction in principal, a short sale of the underlying collateral property, a lengthier term to maturity, a transfer of assets from the borrower, the substitution or addition of a new borrower, or some combination of these terms;
- (b) identify those individuals authorized to approve and/or execute TDRs and the procedures to be incorporated to monitor all approved TDRs for compliance with the TDR Policy;
- (c) require that TDRs be accounted for in accordance with generally accepted accounting principles;
- (d) establish procedures to ensure that all TDRs, repossessions in substance and related specific reserves are reported accurately on Thrift Financial Reports (TFRs)

submitted to the OTS; and

(e) require TDRs and in substance foreclosures to be reported to and reviewed by the Board on a monthly basis.

**Internal Asset Review and Classification.**

16. By January 31, 2011, the Association shall revise its written internal asset review and classification program (IAR Program) to address all corrective actions set forth in the 2010 Examination relating to internal asset review and classification. The IAR Program shall comply with all applicable laws, regulations and regulatory guidance and shall:

(a) ensure the accurate and timely identification, classification, and reporting of the Association's assets, including the designation of loans as special mention or placement of loans on a watch list where a borrower's credit standing has deteriorated on an ongoing basis ;

(b) detail the Association's loan grading system and specify parameters for the identification of problem loans for each type of loan offered by the Association;

(c) provide for the appointment of a qualified, experienced, and independent third party to conduct, at a minimum, annual reviews of the Association's loan portfolio and assessments of the Association's internal asset review process thereof. At least ninety percent of the Association's commercial real estate loans should be subject to independent review;

(d) provide for procedures to ensure that repossessed assets are accounted for in accordance with generally accepted accounting principles.

(e) be independent of the Association's lending function and report to a Board level committee that is independent of the Association's lending function.



**Problem Asset Plan.**

17. By January 31, 2011, the Association shall submit a detailed, written plan with specific strategies, targets and timeframes to reduce<sup>4</sup> the Association's level of problem assets<sup>5</sup> (Problem Asset Reduction Plan) to the Regional Director for review and non-objection. Upon receipt of written non-objection from the Regional Director, the Association shall implement and adhere to the Problem Asset Reduction Plan. The Problem Asset Reduction Plan, at a minimum, shall include:

- (a) monthly targets for the level of problem assets expressed as dollar amounts and a percentage of Tier 1 (Core) capital plus ALLL;
- (b) a description of the specific methods for reducing the Association's level of problem assets to the established targets; and
- (c) all relevant assumptions and projections.

18. By January 31, 2011, the Association shall revise all individual written specific workout plans for each problem asset, group of loans to any one borrower or loan relationship of Five Hundred Thousand Dollars (\$500,000) or greater (Asset Workout Plans) to address all corrective actions in the 2010 Examination. Each Asset Workout Plan shall:

- (a) contain detailed strategies and actions that are designed to eliminate the basis of criticism or classification for each asset, and must not include the acquisition of troubled loans from other lenders to the same borrower as a strategy;
- (b) include specific timeframes for the completion of all detailed strategies and actions, including an exit strategy for each problem asset;

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<sup>4</sup> For purposes of this Paragraph, "reduce" means to collect, sell, charge off, or improve the quality of an asset sufficient to warrant its removal from adverse criticism or classification.

<sup>5</sup> The term "problem assets" shall include all classified assets, assets designated special mention, nonperforming assets, real estate owned, and delinquent loans.

- (c) include a list of any credit and collateral documentation that is needed to comply with the Associations lending and appraisal policies; and
- (d) detail the actions and steps the Association will take to obtain any needed credit and collateral documentation.

19. Within thirty (30) days after the end of each quarter, beginning with the quarter ending March 31, 2011, the Association shall submit a quarterly written asset status report (Quarterly Asset Report) to the Board. The Board's review of the Quarterly Asset Report shall be documented in the Board meeting minutes. The Quarterly Asset Report shall include, at a minimum:

- (a) the current status of all Asset Workout Plans;
- (b) a comparison of problem assets to Tier 1 (Core) capital plus ALLL and Total Risk-Based capital;
- (c) a comparison of problem assets at the current quarter end with the preceding quarter;
- (d) a breakdown of problem assets by type and risk factor;
- (e) an assessment of the Association's compliance with the Problem Asset Reduction Plan; and
- (f) a discussion of the actions taken during the preceding quarter to reduce the Association's level of problem.

20. A copy of the Quarterly Asset Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

### **Financial Reporting.**

21. Effective immediately, the Association shall ensure that its books and records, financial reports and statements are timely and accurately prepared and filed in compliance with generally accepted accounting principles and applicable laws, regulations, and regulatory guidance including, but not limited to, 12 C.F.R. Part 562 and the Thrift Financial Report (TFR) instructions.

### **Internal Audit.**

22. Effective immediately, the Association shall maintain adequate and effective internal controls and shall establish a separate internal audit function or hire a third party to perform this function. By December 31, 2010, the Association shall take corrective to address all internal control and audit weaknesses and deficiencies discussed in the 2010 Examination.

### **Concentrations.**

23. By January 31, 2011, the Association shall implement and adhere to a revised written program for identifying, monitoring, and controlling risks associated with all significant balance sheet concentrations (Concentration Program) that addresses all corrective actions set forth in the 2010 Examination relating to balance sheet concentrations, and will ensure that all elements of CEO Memos 252, 311 and 280 are addressed, including establishing a credit risk review function and conducting stress tests of the various portfolios. The Concentration Program shall comply with all applicable laws, regulations and regulatory guidance and shall:

- (a) establish prudent concentration limits for all significant balance sheet positions expressed as a percentage of Core Capital plus ALLL, including a limit for aggregate pipeline, warehouse, and credit-enhancing repurchase exposure for mortgage loans

originated for sale to non-government sponsored enterprise purchasers, and document the appropriateness of such limits based on the Association's risk profile;

(b) establish stratification categories of the Association's concentrations of credit (e.g., land loans, construction loans, income property loans, nonresidential real estate loans, commercial loans), and establish enhanced risk analysis, monitoring, and management, including stress testing, for each stratification category;

(c) contain specific review procedures and reporting requirements, including written reports to the Board, designed to identify, monitor, and control the risks associated with all significant balance sheet concentrations and periodic market analysis for the various property types and geographic markets represented in its loan portfolio; and

(d) contain a written action plan, including specific time frames, for bringing the Association into compliance with its concentration limits and for reducing exposure to concentrations.

#### **Liquidity Contingency Funding Plan.**

24. By January 31, 2011, the Association shall submit a revised liquidity and funds management contingency funding plan to the Regional Director (Liquidity Funding Plan) that includes all information discussed in the Interagency Policy Statement on Funding and Liquidity Risk and shall:

(a) designate specific actions that will be taken to reduce the Association's dependency on volatile funding sources;

(b) include a comprehensive and detailed cash flow analysis;

(c) identify all primary and secondary funding sources; and

(d) require the preparation of written weekly assessments of the Association's liquidity position.

25. The Board will receive and review a written monthly assessment of the Association's current liquidity position.

**Compliance Program.**

26. By January 31, 2011, the Association shall implement and adhere to a revised written consumer compliance program (Compliance Program) that addresses all corrective actions set forth in the 2010 Examination relating to consumer compliance. The Association's Compliance Program shall:

- (a) be supported by adequate staffing and resources;
- (b) ensure compliance with all applicable consumer and other compliance laws, regulations and regulatory guidance (Compliance Laws and Regulations);<sup>6</sup> and
- (c) be appropriate for the Association's size, complexity, product lines and business operations.

**Legal Opinion.**

27. By January 31, 2011, the Association shall submit to the Regional Director a legal opinion from independent and experienced legal counsel that addresses the application of Internal Revenue Code requirements to the Association's transaction with FF Investments, LLC, and discusses any legal risks to the Association presented by the transaction. The legal opinion should also address whether the activities of FF Investments, LLC are permissible under federal

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<sup>6</sup> The term "consumer and other compliance laws, regulations and regulatory guidance" includes all laws and regulations referenced in Section 1100 (Compliance Oversight Examination Program) of the OTS Examination Handbook.

banking law and whether prior regulatory approval was required for the transaction with FF Investments, LLC.

**Transactions with Affiliates.**

28. Effective immediately, the Association shall not engage in any new transaction with an affiliate unless, with respect to each such transaction, the transaction has been reviewed and approved by the Board and the Association has complied with the notice requirements set forth in 12 C.F.R. § 563.41(c)(4), which notice shall include the information set forth in 12 C.F.R. § 563.41(c)(3). The Board shall ensure that any transaction with an affiliate for which notice is submitted pursuant to this Paragraph, complies with the requirements of 12 C.F.R. § 563.41 and Regulation W, 12 C.F.R. Part 223.

29. By January 31, 2011, the Association shall conduct a review of all outstanding arrangements or contracts with affiliates regarding the provision of services or products, including all transactions discussed in the 2010 Examination, and ensure that such transactions comply with the requirements of 12 C.F.R. § 563.41 and Regulation W, 12 C.F.R. Part 223 (TWA Review). The TWA Review shall identify all transactions reviewed and any required corrective actions. Within fifteen (15) days after completion of the TWA Review, the Association shall submit a copy of the TWA Review to the Regional Director.

**Board Oversight of Compliance with Agreement.**

30. Within thirty (30) days, the Board shall designate a committee to monitor and coordinate the Association's compliance with the provisions of this Agreement and the completion of all corrective actions required in the 2010 Examination (Compliance Committee). The Compliance Committee shall review all of management's corrective actions and make an independent determination of the Association's compliance with this Agreement. The Compliance

Committee shall be comprised of four (4) or more directors, the majority of whom shall be independent<sup>7</sup> directors.

31. Within thirty (30) days after the end of each quarter, beginning with the quarter ending December 31, 2010, the Compliance Committee shall submit a written compliance progress report to the Board (Compliance Tracking Report). The Compliance Tracking Report shall, at a minimum:

- (a) separately list each corrective action required by this Agreement and the 2010 Examination;
- (b) identify the required or anticipated completion date for each corrective action; and
- (c) discuss the current status of each corrective action, including the action(s) taken or to be taken to comply with each corrective action; and
- (d) detail the Compliance Committee's determinations regarding the Association's compliance with the Agreement and completion of all corrective actions required in the 2010 Examination.

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<sup>7</sup> For purposes of this Agreement, an individual who is "independent" with respect to the Association shall be any individual who:

- (a) is not employed in any capacity by the Association, its subsidiaries, or its affiliates, other than as a director;
- (b) does not own or control more than ten percent (10%) of the outstanding shares of the Association or any of its affiliates;
- (c) is not related by blood or marriage to any officer or director of the Association or any of its affiliates, or to any shareholder owning more than ten percent (10%) of the outstanding shares of the Association or any of its affiliates, and who does not otherwise share a common financial interest with any such officer, director or shareholder;
- (d) is not indebted, directly or indirectly, to the Association or any of its affiliates, including the indebtedness of any entity in which the individual has a substantial financial interest, in an amount exceeding 10 percent (10%) of the Association's total Tier 1 (Core) capital; and
- (e) has not served as a consultant, advisor, underwriter, or legal counsel to the Association or any of its affiliates.

32. Within forty-five (45) days after the end of each quarter, beginning with the quarter ending December 31, 2010, the Board shall review the Compliance Tracking Report and all reports required by this Agreement. Following its review, the Board shall adopt a resolution: (a) certifying that each director has reviewed the Compliance Tracking Report and all required reports; and (b) documenting any corrective actions adopted by the Board. A copy of the Compliance Tracking Report and the Board resolution shall be provided to the Regional Director within ten (10) days after the Board meeting.

**Violations of Law.**

33. By January 31, 2011, the Association shall ensure that all violations of law and/or regulation discussed in the 2010 Examination are corrected and that adequate policies, procedures and systems are established or revised and thereafter implemented to prevent future violations.

**Directorate and Management Changes.**

34. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers<sup>8</sup> set forth in 12 C.F.R. Part 563, Subpart H.

**Golden Parachute and Indemnification Payments.**

35. Effective immediately, the Association shall not make any golden parachute payment<sup>9</sup> or prohibited indemnification payment<sup>10</sup> unless, with respect to each such payment, the Association has complied with the requirements of 12 C.F.R. Part 359 and, as to indemnification payments, 12 C.F.R. § 545.121.

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<sup>8</sup> The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

<sup>9</sup> The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

<sup>10</sup> The term "prohibited indemnification payment" is defined at 12 C.F.R. § 359.1(l).



### **Employment Contracts and Compensation Arrangements.**

36. Effective immediately, the Association shall not enter into, renew, extend or revise any contractual arrangement relating to compensation or benefits for any Senior Executive Officer or director of the Association, unless it first provides the Regional Director with not less than thirty (30) days prior written notice of the proposed transaction. The notice to the Regional Director shall include a copy of the proposed employment contract or compensation arrangement or a detailed, written description of the compensation arrangement to be offered to such officer or director, including all benefits and perquisites. The Board shall ensure that any contract, agreement or arrangement submitted to the Regional Director fully complies with the requirements of 12 C.F.R. Part 359, 12 C.F.R. §§ 563.39 and 563.161(b), and 12 C.F.R. Part 570 – Appendix A.

### **Dividends and Other Capital Distributions.**

37. Effective immediately, the Association shall not declare or pay dividends or make any other capital distributions, as that term is defined in 12 C.F.R. § 563.141, without receiving the prior written approval of the Regional Director in accordance with applicable regulations and regulatory guidance. The Association's written request for approval shall be submitted to the Regional Director at least thirty (30) days prior to the anticipated date of the proposed declaration, dividend payment or distribution of capital.

38. By January 31, 2011, the Association shall develop a dividend and capital distribution policy (Dividend Policy) that provides for reasonable earnings retention and the preservation of appropriate capital levels. The Dividend Policy shall identify alternative means of paying shareholder tax liability. The Association shall submit the Dividend Policy to the Regional Director prior to any request for approval of a dividend payment.

### **Third Party Contracts.**

39. Effective immediately, the Association shall not enter into any arrangement or contract with a third party service provider that is significant to the overall operation or financial condition of the Association<sup>11</sup> or outside the Association's normal course of business unless, with respect to each such contract, the Association has: (a) provided the Regional Director with a minimum of thirty (30) days prior written notice of such arrangement or contract and a written determination that the arrangement or contract complies with the standards and guidelines set forth in Thrift Bulletin 82a (TB 82a); and (b) received written notice of non-objection from the Regional Director.

### **Debt Limitations.**

40. Effective immediately, the Association shall not: (a) incur, issue, renew, or rollover any debt,<sup>12</sup> increase any current lines of credit, or otherwise incur any additional debt without receiving the prior written non-objection of the Regional Director; or (b) authorize or permit any subsidiary of the Association to incur, issue, renew, or rollover any debt, increase any current lines of credit, or otherwise incur any additional debt without receiving the prior written non-objection of the Regional Director.. All written requests to the Regional Director shall include, at a minimum: a statement regarding the purpose of the debt; a copy of the debt agreement; the planned source(s) for debt repayment; and an analysis of the cash flow resources available to meet such debt repayment. The Association's written request for non-objection shall be

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<sup>11</sup> A contract will be considered significant to the overall operation or financial condition of the Association where the annual contract amount equals or exceeds two percent (2%) of the Association's total capital, where there is a foreign service provider, or where it involves information technology that is critical to the Association's daily operations without regard to the contract amount.

<sup>12</sup> For purposes of this Paragraph of the Agreement, the term "debt" includes, but is not limited to: loans, bonds, cumulative preferred stock, hybrid capital instruments such as subordinated debt or trust preferred securities, and guarantees of debt; and does not include: liabilities that are incurred in the ordinary course of business to acquire goods and services and that are normally recorded as accounts payable under generally accepted accounting principles.

submitted to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed debt issuance, renewal, or rollover; the proposed increase in any current lines of credit; the proposed guarantee of the debt of any entity; or any other incurrence of additional debt.

**Effective Date.**

41. This Agreement is effective on the Effective Date as shown on the first page.

**Duration.**

42. This Agreement shall remain in effect until terminated, modified or suspended, by written notice of such action by the OTS, acting by and through its authorized representatives.

**Time Calculations.**

43. Calculation of time limitations for compliance with the terms of this Agreement run from the Effective Date and shall be based on calendar days, unless otherwise noted.

**Submissions and Notices.**

44. All submissions to the OTS that are required by or contemplated by the Agreement shall be submitted within the specified timeframes.

45. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Agreement shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

- (a) To the OTS:  
Regional Director  
Office of Thrift Supervision  
1475 Peachtree St., NE  
Atlanta, Georgia 30309
- (b) First Federal Bank, A FSB  
c/o Robert W. Poellnitz, Jr., Chairman  
1300 McFarland Boulevard, NE  
Tuscaloosa, Alabama 35403

**No Violations Authorized.**

46. Nothing in this Agreement shall be construed as allowing the Association, its Board, officers or employees to violate any law, rule, or regulation.

**OTS Authority Not Affected.**

47. Nothing in this Agreement shall inhibit, estop, bar or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

**Other Governmental Actions Not Affected.**

48. The Association acknowledges and agrees that its execution of the Agreement is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 47 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

**Miscellaneous.**

49. The laws of the United States of America shall govern the construction and validity of this Agreement.

50. If any provision of this Agreement is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.

51. All references to the OTS in this Agreement shall also mean any of the OTS's predecessors, successors, and assigns.

52. The section and paragraph headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

53. The terms of this Agreement represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

**Enforceability of Agreement.**

54. This Agreement is a "written agreement" entered into with an agency within the meaning and for the purposes of 12 U.S.C. § 1818.

**Signature of Directors/Board Resolution.**

55. Each Director signing this Agreement attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance and execution of the Agreement. This Agreement may be executed in counterparts by the directors after approval of execution of the Agreement at a duly called board meeting. A copy of the Board Resolution authorizing execution of this Agreement shall be delivered to the OTS, along with the executed original(s) of this Agreement.

